## EXHIBT 2

Pa	nge 1		with.	Page
1 IN THE UNITED STATES DISTRICT COUR'	$\Gamma$ 1		DEFENDANT'S EXH	IBIT INDEX
2 FOR THE MIDDLE DISTRICT OF ALABAM	A 2	4	Photograph	42
3 EASTERN DIVISION	3	5	Photograph	43
4	4	6	Photograph	45
5 LORI ANN MORRIS,	5		1 no to graph	
6 Plaintiff,	6			
7 Vs. CIVIL ACTION NO.	0		* * * * * * * * * * * * *	
3:02-CV-962-T	7			
8 FLORIDA TRANSFORMER,	8			
EDWARD NEAL THOMPSON,	9		mend that for whatever	
9 et al.,	10			
Defendants.	200			
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14 Roman A	14			
DEPOSITION OF JAMES PATTERSON, taken	15			
pursuant to stipulation and agreement before	16			
Haley A. Phillips, Certified Shorthand Reporter,	17			
and Commissioner for the State of Alabama at Large	18			
19 at 301 South Ripley Street, Montgomery, Alabama, o	n 19			
20 Monday, July 10, 2006, commencing at approximate	lv   20			
21 10:30 a.m.	21			
22	22			
23 *********	23			
1 APPEARANCES 2 2 FOR THE PLANTIES.	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	Ţ	STIPULATION is hereby stipulated and agreed	by and
3 FOR THE PLAINTIFF: 4 Henry L. Penick, Esq.	3		ween counsel representing the pa	
Attorney at Law	4		osition of JAMES PATTERSO	
5 Post Office Box 967 Birmingham, Alabama 35201	5	_	Federal Rules of Civil Procedur	
6				
FOR THE DEFENDANT: 7	6 7	-	osition may be taken before Hal tified Shorthand Reporter, and C	
Richard E. Broughton, Esq.  8 Ball, Ball, Matthews & Novak	8		State of Alabama at Large, with	
8 Ball, Ball, Matthews & Novak Attorneys at Law	9		nality of a commission, that obje	
9 Suite 204 2000 Interstate Park Prive	10		stions other than objections as to	
2000 Interstate Park Drive  Montgomery, Alabama 36109	11	-	question need not be made at the	
* * * * * * * * * * *	12		eserved for a ruling at such time	
			osition may be offered in evider	ice or used for
EXAMINATION INDEX	13	-		
2 EXAMINATION INDEX 3	14	any	other purpose by either party pr	
2 EXAMINATION INDEX  BY MR. BROUGHTON 6	14 15	any the	Statute.	rovided for by
2 EXAMINATION INDEX 3 BY MR. BROUGHTON 6 4 BY MR. PENICK 54 BY MR. BROUGHTON 129	14	any the	Statute. is further stipulated and agreed	ovided for by
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2 EXAMINATION INDEX 3 BY MR. BROUGHTON 6 4 BY MR. PENICK 54 BY MR. BROUGHTON 129 5 BY MR. PENICK 130 6 PLAINTIFF'S EXHIBIT INDEX	14 15 16	any the It	Statute. is further stipulated and agreed	by and arties in this
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EXAMINATION INDEX  BY MR. BROUGHTON 6  BY MR. PENICK 54  BY MR. BROUGHTON 129  BY MR. PENICK 130  PLAINTIFF'S EXHIBIT INDEX  Mr. Patterson's resume 79  DEFENDANT'S EXHIBIT INDEX	14 15 16 17 18 19 20	any the It bety case wai case there	Statute.  is further stipulated and agreed ween counsel representing the part that the filing of said deposition wed and may be introduced at the or used in any other manner by	by and arties in this is hereby e trial of this either party egardless of e.

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1	case 3:35 ev: 00902:00902:00000000000000000000000000		Ment 63-12ed 1491/803/229/02/201916ge 13 and (2) 3 of 9 A. Yes, sir.
1		2	Q. Do you know if you've testified as an
2	forensic laser mapping of crash scenes,	3	accident reconstructionist in expert in
3	interviewing and interrogation for the	4	federal court here in the Middle District
4	traffic crash investigator, commercial		of Alabama?
5	vehicle accident investigation, linear	5	
6	momentum and vector diagramming of the	6	A. I don't know. I can't recall.
7	crash scene, computerized collision	7	MR. BROUGHTON: I'm going to
8	diagramming, pedestrian accident	8	offer Henry, I'm going to
9	investigation, motorcycle accident	9	offer Sergeant Patterson as an
10	investigation, applied physics for accident	10	expert in accident
11	reconstruction, photography for the traffic	11	reconstruction to the extent
12	crash investigator.	12	he has opinions that he formed
13	And since that time I've also	13	from his investigation of this
14	reattended an update of traffic crash	14	particular case at this time.
15	reconstruction in 2003. I'm trained as an	15	MR. PENICK: We renew our
16	operator of the Vetronic Crash Data	16	objection to any expert
17	Retrieval Systems. I'm also certified by	17	opinion rendered by this
18	the Alabama Peace Officers Standards and	18	witness for lack of predicate,
19	Training Commission as an instructor in the	19	lack of qualifications as an
20	field of traffic crash investigation.	20	expert in the area of accident
21	Q. Do you as part of your duties or have you	21	reconstruction.
22	as part of your duties with the Alabama	22	Q. Sergeant Patterson, just to make sure that
23	State Troopers reconstructed truck	23	the Record is clear on this, you did form
el exa	Page 18	E	Page 20
1	accidents?	1	an opinion as I understand it about whether
2	A. Yes, sir, I have.	2	the accident was avoidable or unavoidable
3	Q. And for how many years have you done that?	3	by Mr. Thompson, the driver of the
4	A. Since 1993.	4	Peterbilt?
5	Q. Do you Are you qualified as an accident	5	A. Yes, sir, I did.
6	reconstructionist?	6	Q. And that opinion was what?
7	MR. PENICK: Objection to whether	7	MR. PENICK: Same objection about
8	or not he's qualified.	8	lack of predicate to testify
9	A. That would be a question for the Court.	9	as an expert witness.
10	I'm trained as an accident	10	A. It's my opinion that it was not possible
11	reconstructionist.	11	for Mr. Thompson to avoid this crash faced
12	Q. Do you consider yourself qualified as an	12	with the circumstances that he was.
13	accident reconstruction?	13	Q. And that opinion is based on a reasonable
14	MR. PENICK: Same objection.	14	degree of accident reconstruction certainty
15	Q. You can answer.	15	based on your investigation of this
16	A. That would be a question for the Court to	16	accident?
17	answer.	17	A. I'm sorry. Would you repeat that?
18	Q. Have you testified in any civil or criminal	18	Q. Yes, sir. Is that opinion based on a
19	cases as an accident reconstructionist?	19	reasonable degree of accident
20	A. Yes, sir, I have.	20	reconstructionist's certainty based on your
21	Q. How many, approximately?	21	investigation of this accident?
22	A. Many. I don't know. Quite a few.	22	MR. PENICK: Same objection to the
	11. many. I don't know. Valle a low.	100000000000000000000000000000000000000	
23	Q. In state and federal court?	23	form of the question and to

	Page 25	65 -	Page 2 Page 2 Page 1 Page 2 Page 2 Page 4 Page 2 Page 2 Page 2 Page 2 Page 2 Page 2 Page 3 Page 2 Page 3 Page 2 Page 3 Page 2 Page 3 Page 4 Page 4 Page 4 Page 4 Page 5 Page 6 Page 7 Page 6 Page 7 Page 6 Page 7 Page 6 Page 7 Pa
	Case 3025 60 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	eon¢ u01	36 ent 6 Fled (F9) 4 3 (29) 02 (20) 6 ge Proof e 4 of 9
1	criminal investigation initiated by my	1	O Ware you able to determine a point of
2	unit, I did not attempt to do so.	2	Q. Were you able to determine a point of impact between the Peterbilt and the or
3	Q. Did you interview either of the occupants	3	
4	of the Peterbilt?	4	an area of impact between the Peterbilt and
5	A. It was not possible to interview	5	the overturned Panther vehicle?
6	Mr. Morris, and I don't recall whether I	6	MR. PENICK: Let me object to
7	spoke with Mr. Thompson or not.	7	testimony at this point as to
8	Q. Well, he had a passenger too. You don't	8	whether or not he even
9	recall	9	determined the point of
10	A. I don't recall speaking to anyone. I may	10	impact.
11	have. I'm not saying I didn't. I just	11	MR. BROUGHTON: That's what I
12	don't recall whether that conversation	12	asked.
13	occurred or if and even if it did the	13	MR. PENICK: So lack of proper
14	content of those conversations.	14	predicate for him to give
15	Q. When you took the Do your photographs	15	testimony on this point.
16	any of your photographs depict any evidence	16	A. I have an opinion as to an approximate area
17	on the roadway as to where and in which	17	of impact. As far as a specific point, I
18	lanes the Panther vehicle had overturned in	18	can't narrow it down that closely, but I do
19	the initial accident as you described it?	19	believe I can narrow it down to an area.
20	A. I believe that it was blocking all of the	20	Q. What's your opinion as to the area of
21	leftmost lane and partially blocking the	21	impact?
22	right lane, if not completely.	22	A. It's within the right-hand northbound lane
23	With more next and who besuff (A = 1)	23	of I-85.
7.55.57		1	
1119	Page 26	100	Page 2
1		1	Page 2  Q. Does the
1 2	(Defendant's Exhibit P-2 was marked for identification.)	1 2	Q. Does the A. And when I describe that, I'm referring to
1 2 3	(Defendant's Exhibit P-2 was marked for identification.)		<ul><li>Q. Does the</li><li>A. And when I describe that, I'm referring to the nose of the Peterbilt at the point that</li></ul>
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2 3 4	(Defendant's Exhibit P-2 was marked for identification.)  Q. Let me show you what I've marked as Defendant's Exhibit P-2 and ask you did you	2 3 4	<ul><li>Q. Does the</li><li>A. And when I describe that, I'm referring to the nose of the Peterbilt at the point that</li></ul>
2 3 4 5	(Defendant's Exhibit P-2 was marked for identification.)  Q. Let me show you what I've marked as Defendant's Exhibit P-2 and ask you did you take that photograph.	2 3	<ul> <li>Q. Does the</li> <li>A. And when I describe that, I'm referring to the nose of the Peterbilt at the point that it collided with the trailer of the Kenworth.</li> </ul>
2 3 4 5 6	(Defendant's Exhibit P-2 was marked for identification.)  Q. Let me show you what I've marked as Defendant's Exhibit P-2 and ask you did you take that photograph.  A. I did.	2 3 4 5 6	<ul> <li>Q. Does the</li> <li>A. And when I describe that, I'm referring to the nose of the Peterbilt at the point that it collided with the trailer of the Kenworth.</li> <li>MR. PENICK: Same objection.</li> </ul>
2 3 4 5 6 7	(Defendant's Exhibit P-2 was marked for identification.)  Q. Let me show you what I've marked as Defendant's Exhibit P-2 and ask you did you take that photograph.  A. I did.  Q. Does that photograph fairly and accurately	2 3 4 5 6 7	<ul> <li>Q. Does the</li> <li>A. And when I describe that, I'm referring to the nose of the Peterbilt at the point that it collided with the trailer of the Kenworth.</li> <li>MR. PENICK: Same objection.</li> <li>Q. Did Can you show me on that photograph</li> </ul>
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Deposition of James Patterson

A. It had not.

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that are shown in Defendant's Exhibit P-2?

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1	A. It had not.	1	that are snown in Defendant's Exhibit F-2?
2	Q. And any tire marks that are depicted in	2	A. No, sir, it does not, nor does it
3	that photograph were there the night of	3	accurately depict the positions of the
4	this accident; correct?	4	vehicles.
5	A. That is correct.	5	MR. PENICK: Object to the
6	Q. And, again, describe what you were	6	answer. It was nonresponsive
7	describing about these particular tire	7	to the question.
8	marks.	8	Q. And do you have an explanation for that?
9	A. These tire marks are aligned down the	9	A. An explanation for why the tire marks are
1100	right-side lane and	10	not depicted?
10		11	Q. Why the tire marks are not depicted and why
11	Q. The right side of	12	the scene might not be accurately depicted
12	A. The right side of the right-hand lane.	11,770,100	in that particular drawing in Defendant's
13	They appear to lead directly to the trailer	13	
14	tires of the	14	Exhibit P-1.
15	This is the Peterbilt, is it not?	15	A. Trooper
16	Q. Right. That's confusing.	16	MR. PENICK: Object to the this
17	A the Peterbilt.	17	question because it requires
18	Q. Which trailer tires? Which side of the	18	speculation on the part of the
19	trailer?	19	witness.
20	A. The left side tandems of the trailer, the	20	Q. Go ahead.
21	utility trailer pulled by that truck. They	21	A. Trooper Huntley prepared a not-to-scale
22	appear to lead directly to it. I cannot	22	diagram. It's not intended to perfectly
23	see in this photograph if they continue on	23	depict the final position of this vehicle.
1	Page 34	1	Page 36  And it poorly depicts the final positions
1	past that to determine for certain whether	2	of the particularly vehicle number two,
2	they're from the drive axle or the tandem.	3	the Thompson vehicle. And I don't know why
3	However, they appear to stop directly at	4	he left the tire marks off. This was a
4	the tire position of the trailer.	20163	very dark night. He may have failed to
5	(Defendant's Exhibit P-1 was marked	5	observe them and not realized they were
6	for identification.)	6	
7	Q. All right. Let me show you Defendant's	7	there. But, again, that is speculating. I
8	Exhibit P-2 and ask you to identify I	8	don't know why he left them off. However,
9	mean, Defendant's Exhibit P-1, which I	9	they were present. He didn't put them on
10	haven't yet offered, and ask you what that	10	the diagram.
11	is. The state of t	11	Q. In the absence
12	A. This is the crash report prepared by	12	MR. PENICK: Werenew our
13	Trooper Alex Huntley regarding this crash.	13	objection to that answer since
14	Q. All right. And it has been reported by	14	it was speculation on his
15	other people that have reviewed Defendant's	15	part.
16	Exhibit P-1 that that drawing shows no skid	16	Q. Also on the drawing And this is I
17	marks or tire marks.	17	guess Is there a page number on that
18	MR. PENICK: Object to the preface	18	drawing? I call it page four of
19	of the question about what	19	Defendant's Exhibit P-1. Why don't we
20	other people have said about	20	number these?
21	it.	21	MR. BROUGHTON: Henry, do you have
22	Q. And my question to you is, does that	22	an issue with that
23	drawing show the tire marks or skid marks	23	MR. PENICK: No, I don't.
23	drawing show the the marks of skie marks	100	

	Page 89	Page 91
	Caşe 30256e 4 005962-009625174MT_S P. W. cumb	oc660 ent 6 Filed 09/46/29/02/20 foge frage 6 of 9 vehicles that had come to a rest by the
1		
2	it ran off the road into the median until	
3	it came back into the roadway.	<ul><li>3 A. It's possible.</li><li>4 Q. Okay. So you're not So you can't say</li></ul>
4	Q. All right. Now And so you arrived at	for certain that the UPS driver saw any of
5	the scene. And was there anybody other	6 this accident?
6	than Alex Huntley there taking field notes?	7 A. My best recollection is that he did, but I
7	A. I'm sure there were a lot of people there.  These crashes tend to draw lots of	8 do not recall that for 100 percent
8		9 certainty.
9	emergency personnel when they involve commercial vehicles. There were firemen	10 Q. Do you recall talking to Trooper Huntley?
10	there. I don't recall if there were other	11 A. I don't recall talking to him. I'm sure I
11 12	troopers there. You know, I've been to	did. It would be unnatural for me not to
13	many, many crashes since this time. I	be at the scene of a crash and speak with
14	don't I didn't make any notes as to who	the trooper on the scene. However, I don't
15	was present.	recall speaking to him.
16	Q. And I think you said that you were there	16 Q. Do you recall speaking to anybody there
17	for a limited time. How long were you	other than the UPS driver?
18	there?	18 A. No. But I'm sure I did.
19	A. I don't know. Maybe an hour, hour and a	19 Q. Now is your chance. Is there anybody else
20	half, I'm guessing. I have no idea exactly	20 that you spoke to?
21	how long I was there.	21 A. Again, yes, I'm sure there are other people
22	Q. All right. When you got there, did you see	22 I spoke to. I thought I just answered
23	the driver of the Peterbilt, Mr. Thompson?	that, Mr. Penick. I don't recall who they
1 70	Page 90	Page 92
1		Page 92  1 were or what we talked about. Once I
1 2	A. I don't recall seeing him.	
	<ul><li>A. I don't recall seeing him.</li><li>Q. Do you recall talking to him?</li></ul>	were or what we talked about. Once I determined that the driver of the causative vehicle was deceased, I ceased being in
2	A. I don't recall seeing him.	were or what we talked about. Once I determined that the driver of the causative
2 3	<ul><li>A. I don't recall seeing him.</li><li>Q. Do you recall talking to him?</li><li>A. No, sir, I don't recall that.</li></ul>	were or what we talked about. Once I determined that the driver of the causative vehicle was deceased, I ceased being in investigator mode. I'm a criminal investigator.
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Case 3285cr0-0606240bH228FWV - SROCUMINATED CONTRIBUTE		Page 113	Tite	Page 115
shanguawy, dut mis oal nave an object?  A. Absolutely, It would depend on the candle power of the light source.  Q. On a —  A. Headlights are all much the same. Q. On a very dark night like this, do you think that they should — a person should have had on his high beams or low beams?  A. Depending on whether he's meeting any traffic. He would need to be in compliance with Alabama law regarding headlight use. And it it's an interstate highway.  G. Also on the police report down near the Peterbilt—this is your Exhibit 1— So a tractor-trailer could really go down that emergency lane; if the contributing circumstances it says 97. What is that?  A. 97 means none, that there was no contributing circumstance on the part of the Peterbilt.  Q. Okay.  A. In other words, he did nothing wrong. Q. In your opinion? A. That would be in the opinion of Trooper Huntley who made that report. However, 1 concur.  Q. When you gave your opinion about how this accident occurred, in addition to the lighting you said the alignment of the vehicles prior to impact. A. Yes.  A. Yes, sir. Q. Do you know how wide that emergency lane. If the readway wide the regint white line is the emergency lane; right? A. Yes, sir. Q. Do you know how wide that emergency lane of to the right? A. Yes, sir. A. Headlights you waid that emergency lane in that that solid white line that's on the far right of the roadway? A. Yes, sir. Q. Do you know how wide that emergency lane if the town wide that the mergency lane if the town wide the term fog line. Is that the	1	Case 3235 @ 3:06962 00 962 9 WHV - SRNOCUM	eon¢ ubit	Shent 63-Red (1946) (220) 102/2019 (age 1920) (age 1920
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6 Q. On a 7 A. Headlights are all much the same. 8 Q. On a very dark night like this, do you think that they should a person should have had on his high beams or low beams? 11 A. Depending on whether he's meeting any traffic or not or following any traffic. 12 He would need to be in compliance with a life would need to be in compliance with it's an interstate highway. 13 He would need to be in compliance with it's an interstate highway. 14 Alabama law regarding headlight use. And it's an interstate highway. 15 Q. Also on the police report down near the Peterbilt this is your Exhibit 1 17 where it says other contributing circumstances it says 97. What is that? 18 A. 97 means none, that there was no contributing circumstance on the part of the Peterbilt. 19 A. In other words, he did nothing wrong. 20 Q. Okay. 21 Okay. 22 Okay. 23 That would be in the opinion of Trooper Huntley who made that report. However, I concur. 24 Concour. 25 Q. When you gave your opinion about how this accident occurred, in addition to the lighting you said the alignment of the vehicles prior to impact? 21 A. That would be in the opinion of mact. 22 A. Yes, sir. 23 A. That would be in the opinion of Trooper Huntley who made that report. However, I concur. 36 Q. When you gave your opinion about how this accident occurred, in addition to the lighting you said the alignment of the vehicles prior to impact? 31 A. Thave Their final rest positions and the marks on the roadway indicate to me that the Morris vehicle was lying on its le left side with the rear of the trailer toward the median, the tractor out in both lanes. 32 A. But I believe you said that the in your earlier testimony that the tractor was partially blocking the right lane. Is that white line that's on the emergency lane is? 4. A. Ididn't measure this one. Typically ten feet. 4. Tididn't measure this one. Typically ten feet. 4. A. Ididn't measure this one. Typically eight to eight and a half feet. 4. Typically eight to eight and a half feet. 4. This is that the m			and the second	
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11 A. Depending on whether he's meeting any traffic or not or following any traffic. 13 He would need to be in compliance with 14 Alabama law regarding headlight use. And it's an interstate highway. 14 Alabama law regarding headlight use. And it's an interstate highway. 15 Q. Also on the police report down near the Peterbilt this is your Exhibit 1 where it says other contributing circumstances it says 97. What is that? 16 A. 97 means none, that there was no contributing circumstance on the part of the Peterbilt. 17 A. 97 means none, that there was no contributing circumstance on the part of 21 the Peterbilt. 18 Q. Okay. 19 A. 10 other words, he did nothing wrong. 20 Q. In your opinion? 21 A. 11 nother words, he did nothing wrong. 22 Q. In your opinion? 23 A. That would be in the opinion of Trooper Huntley who made that report. However, I concur. 24 G. When you gave your opinion about how this accident occurred, in addition to the lighting you said the alignment of the vehicles prior to impact? 10 A. Yes. 11 Q. Do you have any knowledge about the alignment of the vehicles prior to impact? 12 A. Thave — Their final rest positions and the marks on the roadway indicate to me that the Morris vehicle was lying on its left side with the rear of the trailer toward the median, the tractor out in both lanes. 15 A. Yes, sir. 16 Q. Do you know how wide that emergency lane is? 16 Q. Do you know how wide a tractor-trailer is? 17 A. Typically eight to eight and a half feet. 28 Os a tractor-trailer could really go down that emergency lane; have that the gift to do so. Whether it could swerve into it to do so. Whether it could swerve into it and maintain alignment in a 10-foot lane without a trailer swing or going off the roadway to the right depends on how much time there is to react. But it's physically — Its physical dimensions would allow it to drive down an emergency lane. 16 Q. Well provided the region of the roadway. Do you know whether or not the side of the roadway was essentially level at this location? 19 Q. Bu			100	
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No.	Page 121	1,000	Page 123
,	Case <b>Case:</b> 0696200962-S.R.WS.R.W.cunD. Q. Have you ever seen a cab to be totally	and 1898	eant 63-71 ed 69/et302008/2068 ge 18 ag e 98 of 9
	Q. Have you ever seen a cab to be totally	1	Conspicuity. What if I nompson had seen
2	separated from a tractor in any other		Monis veincle in time to apply ins
3	accident?	3	brakes, slow the vehicle and take it off to
4	A. Quite a few times.	4	the right into the emergency lane, could the accident have been avoided?
5	Q. Can you recall any one right here?	5	
6	A. I recall one. I can't remember the I	6	MR. BROUGHTON: Object to the
7	know the decedent's name was Tindall. It	7	form. Assumes facts not in
8	happened on U.S. 231 just south of	8	evidence.
9	Montgomery. That's one that I can recall.	9	A. Had he Had it been possible for him to
10	However, there have been many. These cabs	10	see that vehicle in his path in time to do
11	are typically air mounted. They're mounted	11	so, then he could have either brought the
12	on airbags that allow a more comfortable	12	vehicle to a stop or did, as you said, slowed it and driven around it in the
13	ride for these stiffly suspended trucks.	13	
14	They're not substantially bolted down to	14	emergency lane. That would have required him to be able to see the vehicle at some
15	the cab. In a crash where forces are	15	
16	exerted on them, they can They come off	16	500 feet away.
17	quite often, that's what I'm trying to say.	17	Q. To stop it?
18	Q. And when you mention Tindall, how long was	18	A. No. He must first see it, identify it as a
19	that that accident occurred?	19	hazard, formulate a plan as to what he
20	A. Maybe year and a half, two years. But	20	needs to do, and then initiate a physical
21	there have been many more than that.	21	reaction and then carry out that physical reaction. All that takes time. In other
22	Q. 2004?	22 23	
23	A. Something like that.	23	words, reaction time.
			*
	Page 122		Page 124
1	Page 122		
1 2	Q. All right. Now, you also said that your	1	Q. Okay.
2	Q. All right. Now, you also said that your opinion was based on your knowledge of	1 2	Q. Okay. A. There's something You're driving down a
2 3	Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?	1 2 3	<ul><li>Q. Okay.</li><li>A. There's something You're driving down a roadway at night. You see something in</li></ul>
2 3 4	<ul><li>Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?</li><li>A. Based on my training and experience in the</li></ul>	1 2 3 4	<ul><li>Q. Okay.</li><li>A. There's something You're driving down a roadway at night. You see something in your path. First, you have to say what is</li></ul>
2 3 4 5	<ul><li>Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?</li><li>A. Based on my training and experience in the field of conspicuity.</li></ul>	1 2 3 4 5	<ul> <li>Q. Okay.</li> <li>A. There's something You're driving down a roadway at night. You see something in your path. First, you have to say what is that and then decide that it whether it</li> </ul>
2 3 4 5 6	<ul><li>Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?</li><li>A. Based on my training and experience in the field of conspicuity.</li><li>Q. And how many courses have you had in that?</li></ul>	1 2 3 4 5 6	<ul> <li>Q. Okay.</li> <li>A. There's something You're driving down a roadway at night. You see something in your path. First, you have to say what is that and then decide that it whether it is or is not a hazard to you and then you</li> </ul>
2 3 4 5 6 7	<ul><li>Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?</li><li>A. Based on my training and experience in the field of conspicuity.</li><li>Q. And how many courses have you had in that?</li><li>A. Almost every crash investigation course</li></ul>	1 2 3 4 5 6 7	<ul> <li>Q. Okay.</li> <li>A. There's something You're driving down a roadway at night. You see something in your path. First, you have to say what is that and then decide that it whether it is or is not a hazard to you and then you have to decide what to do about it. All</li> </ul>
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2 3 4 5 6 7 8 9	<ul> <li>Q. All right. Now, you also said that your opinion was based on your knowledge of visibility?</li> <li>A. Based on my training and experience in the field of conspicuity.</li> <li>Q. And how many courses have you had in that?</li> <li>A. Almost every crash investigation course that I have taken deals in some form with driver perception and conspicuity factors.</li> </ul>	1 2 3 4 5 6 7 8 9	<ul> <li>Q. Okay.</li> <li>A. There's something You're driving down a roadway at night. You see something in your path. First, you have to say what is that and then decide that it whether it is or is not a hazard to you and then you have to decide what to do about it. All that takes time. If he's going 70 miles per hour, then he's traveling at, what, 105</li> </ul>
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Deposition of James Patterson

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	clear, you have nothing here today to tell you how much skid marks Thompson's tractor-trailer made until impact?  A. No. I did not measure those marks myself. And if they were measured, I've not been made aware of the measurements.  Q. All right.  MR. PENICK: That's all.  MR. BROUGHTON: Just one follow up.  EXAMINATION  BY MR. BROUGHTON:  Q. Everything you saw, the tracks of the Morris vehicle down in the median, all that evidence is consistent with a driver simply falling asleep?  MR. PENICK: Objection to Objection to the question. Assumes facts in evidence and is conjecture and hypothetically, speculative and everything else.  Q. You can answer.	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	causes me to form an opinion that drowsiness or being asleep is the most likely cause of this.  Q. Okay.  A. However, I cannot substantiate that with any physical or forensic evidence.  Q. And not to any degree of certainty?  A. No.  Q. For example, as you just said, you don't know how long he had been driving before he went off; right?  A. No, I don't.  Q. You don't know whether or not he had just started driving, do you?  A. Don't know.  Q. And you don't know whether or not another vehicle could have forced him off the road either, do you?  A. I am more convinced that that did not occur because of the angle that he went off the roadway at was not abrupt.  Q. Typically if somebody merged over onto him if somebody merged over into his
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Yes.  MR. BROUGHTON: That's all I have.  MR. PENICK: Let me follow up with that question.  EXAMINATION  BY MR. PENICK:  Q. Do you have any evidence whatsoever to tell you that Morris fell asleep when he went into the median?  A. I don't have any evidence directly from Mr. Morris who was deceased, therefore, I could not ask him any questions. What I can say based on my training and experience in traffic crash investigation, the movements of his vehicle are completely consistent with many other crashes that were the result of an asleep driver. That combined with the time of the morning, 3:25 a.m I did not inspect his logbook. I don't know what his working hours had been. But a 3:25 a.m. crash, a driver going off into the median, that	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	lane, wouldn't he go off go off into the median?  A. He might. I wouldn't. Q. Okay. A. If a car was coming over on me, I'd stay there. Q. You don't have any evidence that a car Well, let me rephrase that. A. You're correct. Q. Well, you don't have any evidence whether or not someone had forced him off the road. A. There's no evidence to indicate that someone had forced him off the road. Q. And you don't know whether or not that occurred, do you? A. Well, what we'd have to assume is that if it's a car that it's in his blind spot. To be in a position to force him off the road, it has to be in his blind spot. How can something you can't see force you off the road? Q. Somebody was driving along in the outside lane and started moving over into the